

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17199
[REDACTED])	
Petitioner.)	DECISION
)	
)	

On February 13, 2003, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner), proposing income tax, penalty, and interest for the years 1995, 1996, 1997, 1998, 1999, and 2000 in the total amount of \$12,323.

On March 12, 2003, a timely protest and petition for redetermination was received from the petitioner. An informal hearing was not requested. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NOD.

The petitioner failed to file his 1995 through 2000 individual income tax returns. On October 22, 2002, TDB sent the petitioner a letter and a questionnaire designed to properly determine the petitioner's filing requirement. The petitioner did not respond to this letter, so TDB [Redacted] The petitioner submitted a timely protest along with his 1998 and 2000 tax returns. His protest letter stated that he received a deficiency notice and was sending his tax returns for 1998 and 2000. He stated he was currently working on his 1995, 1996, 1997, and 1999 returns and that his 1998 and 2000 returns showed that Idaho owed him a refund for those years.

On March 14, 2003, TDB sent the petitioner a letter notifying him that his protest was a timely petition of his NOD. TDB also requested that he provide any information he wished to submit for the Commission's review.

TDB sent the petitioner another letter on May 9, 2003, requesting that he provide returns for 1995, 1996, 1997 and 1999.

In a letter dated June 20, 2003, TDB informed the petitioner that his Idaho income tax returns for the years 1997 and 1999 had been received and requested that he provide his 1995 and 1996 returns.

TDB informed the petitioner that the Commission had determined that the NOD should be canceled for tax years 1997, 1999, and 2000. Those years will not be addressed any further in this decision.

TDB made another request for the petitioner to file his 1995 and 1996 Idaho income tax returns and informed him that his file would be transferred to the Commission's Legal/Tax Policy Division for further review if the returns were not received by August 22, 2003.

On October 29, 2003, the Tax Policy Specialist (policy specialist) sent the petitioner a hearing rights letter to inform him of his alternatives for redetermining a protested NOD. A follow-up letter was sent to the petitioner on January 28, 2004. The petitioner did not respond to either letter.

The petitioner's return for 1998 resulted in a refund. However, Idaho Code section 63-3072(c) prohibits refunding or crediting the overpayment of Idaho income taxes withheld and Idaho Code section 63-3024A(g) does not allow a refund claim if the claim for credit or refund was not filed within three years of the due date of the return. The petitioner's 1998 return had a due date of April 15, 1999. Since the petitioner submitted his 1998 return in March of 2003, well outside the three-year statute of limitations, no credit or refund will be issued for this year.

[Redacted] The petitioner has not provided the Commission with a contrary result to the determination of his income [Redacted] Therefore, the Commission must uphold the

deficiency as modified.

WHEREFORE, the Notice of Deficiency Determination dated February 13, 2003, as MODIFIED, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following tax, penalty and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1995	\$419	\$105	\$248	\$772
1996	477	119	241	837
1998	0	0	0	<u>0</u>
			Total	<u>\$1,609</u>

Interest is computed through July 7, 2004.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2004, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.